

On March 28, 2003 appellant, then a 49-year-old limited-duty clerk, filed a claim for compensation for an occupational disease of pulled muscles that she attributed to excessive overhead lifting while working on the flat sorting machine. Appellant stated this caused stress to her neck, back and stomach. Appellant contended that the duties to which she was assigned on

May 11, 2002 were beyond her physical capabilities and that she felt her neck and low back strain when she lifted trays of flats.

Appellant submitted copies of the employing establishment's temporary limited-duty offers of July 31, 2002, which she declined and August 5, 2002, which she accepted. She also submitted reports listing her work tolerance limitations from July 29 and August 5, 2002 to March 25, 2003. In a January 11, 2003 report, Dr. Darrell D. Barnes, a chiropractor, stated that appellant came to his office on that date "with back and neck complaints resulting from her work conditions." On May 28, 2003 the Office advised her of the factual and medical evidence needed to establish her claim, including a comprehensive medical report explaining how her employment contributed to her condition. Appellant submitted a further description of her employment duties from May 2002 to March 19, 2003, noting that her position of data conversion operator was terminated in May 2002, whereupon she was assigned to the flat sorting machine where she lifted flat trays weighing 25 to 50 pounds. Appellant was reassigned to the registry room in August 2002, where she lifted containers weighing 30 to 70 pounds. In January 2003, appellant was assigned as a bar code sorter and on March 19, 2003 she pulled down heavy mail. In a June 19, 2003 report, Dr. Rommel Childress, a Board-certified orthopedic surgeon, diagnosed a lumbar strain that commenced March 19, 2003 and indicated that appellant was not able to work because of "multiple difficulties." She also submitted a June 27, 2003 report from Glenda Moses, a nurse practitioner.

By decision dated August 8, 2003, the Office found that appellant had not established that her claimed medical condition was related to established work-related events.

Appellant requested a hearing, which was held on April 14, 2004. Appellant submitted a May 10, 2004 affidavit from a coworker confirming that appellant lifted trays on March 19, 2003 and complained of back pain. In a July 22, 2002 report, Dr. Denise Hightower noted that appellant had lower abdominal pains for one and one-half months, also wrist and lower back pain that started when she changed departments at the employing establishment and began lifting up to 70 pounds. In a March 25, 2003 report, Dr. Childress noted that appellant had some difficulty with her back for a number of years that she felt was related to repetitive lifting at work and that heavy pulling activity on March 19, 2003 caused increased pain and discomfort. Examination revealed exquisite tenderness to palpation and percussion in her lumbar region with palpable spasm at 65 degrees and intact reflexes and neurological function. Dr. Childress diagnosed "Acute and chronic lumbar strain and spasm which is work related from repetitive lifting and straining activities." Other reports from Dr. Childress stated on May 1, 2003 that some job duties seemed to aggravate appellant's back, on August 15, 2003 that a storm resulted in increased spasm and pain, on November 14, 2003 that her back and legs kept her from functioning, on January 23, 2004 that her back and buttock pain were residuals from her injury and that she had difficulty with light duty and on February 27, 2004 that she had a gastrointestinal problem. In a March 26, 2004 report, Dr. Stephen M. Waggoner, an orthopedic surgeon, noted that appellant had low back pain since June 2002 and said she injured it lifting at work then, that her complaint of pain with axial compression and pelvic compression was nonphysiologic, that her motor strength, sensation and reflexes were normal and that a lumbar magnetic resonance imaging scan on December 3, 2003 showed no abnormalities. Dr. Waggoner stated that appellant was permanently restricted from lifting over 25 pounds but this was not due to her injury but rather to her body stature and size. In an April 12, 2004 report,

Dr. Thomas E. Motley, an internist, stated that hemorrhoids and low back pain can be contributed to by heavy lifting and straining.

By decision dated July 7, 2004, an Office hearing representative found that there was no dispute as to appellant's work duties, but that the medical evidence was devoid of a rationalized medical opinion relating any of her medical conditions to her federal employment.

LEGAL PRECEDENT

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that her condition was caused or adversely affected by her employment. As part of this burden she must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relation. The mere fact that a disease manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the disease became apparent during a period of employment, nor the belief of appellant that the disease was caused or aggravated by employment conditions, is sufficient to establish causal relation.¹

ANALYSIS

The Board finds that appellant has not met her burden of proving that her neck and abdominal conditions are causally related to her employment duties. The record contains no medical evidence addressing a neck condition,² and no medical evidence that indicates that she has an abdominal condition that is causally related to her employment duties. Dr. Hightower's July 22, 2002 statement that her abdominal problems and low back pain started when she changed departments at work is a recitation of history rather than an opinion on causal relationship and is not the rationalized medical opinion needed to establish her claim.

With regard to her low back, the only condition appellant noted that she was lifting trays on March 19, 2003 and experienced back pain. Dr. Childress's March 25, 2003 report contains a history of heavy pulling on March 19, 2003, findings on examination including lumbar spasm, a diagnosis of lumbar strain and an opinion that this condition was work related from repetitive lifting and straining. The June 19, 2003 report from Dr. Childress stated that appellant sustained a lumbar strain beginning March 19, 2003. The Board finds that while these reports are not sufficient to meet appellant's burden of proof, they raise an uncontroverted inference of causal relationship sufficient to require further development of the claim.³ The case will be remanded to the Office for appropriate development regarding whether appellant sustained an employment related low back strain.

¹ *Froilan Negron Marrero*, 33 ECAB 796 (1982).

² A chiropractor noted appellant's neck complaints, but the chiropractor is not a physician under section 8101(2) of the Federal Employees' Compensation Act because he did not diagnose a subluxation as demonstrated by x-ray to exist.

³ *See John J. Carlone*, 41 ECAB 354 (1989).

CONCLUSION

The Board finds that appellant has not established that she sustained a cervical or abdominal condition causally related to her employment. The case is sustained for development of whether she remanded low back strain on March 19, 2003.

ORDER

IT IS HEREBY ORDERED THAT the July 7, 2004 decision of the Office of Workers' Compensation Programs is affirmed in part, and set aside in part. The case is remanded to the Office for action consistent with this decision of the Board.

Issued: April 6, 2005
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member